

An act to amend Section 17210 of the Education Code, to amend Sections 25200.14, 25201.6, 25244.19, 25244.20, 25395.30, 25395.119, 44392, and 106615 of, to add Section 25114.5 to, to repeal Sections 57009 and 58004.5 of, to repeal Article 8 (commencing with Section 25395.1) of Chapter 6.8 of Division 20 of, and to repeal Chapter 6.10 (commencing with Section 25401) and Chapter 6.98 (commencing with Section 25570) of Division 20 of, the Health and Safety Code, and to amend Sections 21155.1 and 21159.21 of the Public Resources Code, relating to hazardous materials, and making an appropriation therefor, to take effect immediately, bill related to the budget.



THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17210 of the Education Code is amended to read:

17210. As used in this article, the following terms have the following meanings:

(a) "Administering agency" means any agency designated pursuant to Section 25502 of the Health and Safety Code.

(b) "Environmental assessor" means ~~a class II environmental assessor registered by the Office of Environmental Health Hazard Assessment pursuant to Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code, a professional engineer registered in this state, a geologist registered in this state, a certified engineering geologist registered in this state, or a licensed hazardous substance contractor certified pursuant to Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code. A licensed hazardous substance contractor shall hold the equivalent of a degree from an accredited public or private college or university or from a private postsecondary educational institution approved by the Bureau for Private Postsecondary and Vocational Education with at least 60 units in environmental, biological, chemical, physical, or soil science; engineering; geology; environmental or public health; or a directly related science field. In addition, any person who conducts phase I environmental assessments shall have at least two years' experience in the preparation of those assessments and any person who conducts a preliminary endangerment assessment shall have at least three years' experience in conducting those assessments~~ an environmental professional as defined in Section 312.10 of Title 40 of the Code of Federal Regulations.



120926307910BILL

(c) "Handle" has the meaning the term is given in Article 1 (commencing with Section 25500) of Chapter 6.95 of Division 20 of the Health and Safety Code.

(d) "Hazardous air emissions" means emissions into the ambient air of air contaminants that have been identified as a toxic air contaminant by the State Air Resources Board or by the air pollution control officer for the jurisdiction in which the project is located. As determined by the air pollution control officer, hazardous air emissions also means emissions into the ambient air from any substance identified in subdivisions (a) to (f), inclusive, of Section 44321 of the Health and Safety Code.

(e) "Hazardous material" has the meaning the term is given in subdivision (d) of Section 25260 of the Health and Safety Code.

(f) "Operation and maintenance," "removal action work plan," "respond," "response," "response action," and "site" have the meanings those terms are given in Article 2 (commencing with Section 25310) of the state act.

(g) "Phase I environmental assessment" means a preliminary assessment of a property to determine whether there has been or may have been a release of a hazardous material, or whether a naturally occurring hazardous material is present, based on reasonably available information about the property and the area in its vicinity. A phase I environmental assessment ~~may include, but is not limited to, a review of public and private records of current and historical land uses, prior releases of a hazardous material, data base searches, review of relevant files of federal, state, and local agencies, visual and other surveys of the property, review of historical aerial photographs of the property and the area in its vicinity, interviews with current and previous owners and operators, and review of regulatory correspondence and environmental reports. Sampling or~~



testing is not required as part of the phase I environmental assessment. A phase I environmental assessment conducted pursuant to the requirements adopted by the American Society for Testing and Materials for due diligence for commercial real estate transactions and that includes a review of all reasonably available records and data bases regarding current and prior gas or oil wells and naturally occurring hazardous materials located on the site or located where they could potentially effect the site, satisfies shall meet the most current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or meet the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations. That ASTM Standard Practice for Environmental Site Assessments or the requirements of Part 312 (commencing with Section 312.1) of Title 40 of the Code of Federal Regulations shall satisfy the requirements of this article for conducting a phase I environmental assessment unless and until the Department of Toxic Substances Control adopts final regulations that establish guidelines for a phase I environmental assessment for purposes of schoolsites that impose different requirements from those imposed by the American Society for Testing and Materials.

(h) "Preliminary endangerment assessment" means an activity that is performed to determine whether current or past hazardous material management practices or waste management practices have resulted in a release or threatened release of hazardous materials, or whether naturally occurring hazardous materials are present, which pose a threat to children's health, children's learning abilities, public health or the environment. A preliminary endangerment assessment requires sampling and analysis



of a site, a preliminary determination of the type and extent of hazardous material contamination of the site, and a preliminary evaluation of the risks that the hazardous material contamination of a site may pose to children's health, public health, or the environment, and shall be conducted in a manner that complies with the guidelines published by the Department of Toxic Substances Control entitled "Preliminary Endangerment Assessment: Guidance Manual," including any amendments that are determined by the Department of Toxic Substances Control to be appropriate to address issues that are unique to schoolsites.

(i) "Proposed schoolsite" means real property acquired or to be acquired or proposed for use as a schoolsite, prior to its occupancy as a school.

(j) "Regulated substance" means any material defined in subdivision (g) of Section 25532 of the Health and Safety Code.

(k) "Release" has the same meaning the term is given in Article 2 (commencing with Section 25310) of Chapter 6.8 of Division 20 of the Health and Safety Code, and includes a release described in subdivision (d) of Section 25321 of the Health and Safety Code.

(l) "Remedial action plan" means a plan approved by the Department of Toxic Substances Control pursuant to Section 25356.1 of the Health and Safety Code.

(m) "State act" means the Carpenter-Presley-Tanner Hazardous Substance Account Act (Chapter 6.8 (commencing with Section 25300) of Division 20 of the Health and Safety Code).

SEC. 2. Section 25114.5 is added to the Health and Safety Code, to read:



25114.5. "Environmental assessor" means an environmental professional as defined in Section 312.10 of Title 40 of the Code of Federal Regulations. Notwithstanding Section 25110, this definition shall apply for all California statutes, unless the context requires otherwise.

SEC. 3. Section 25200.14 of the Health and Safety Code is amended to read:

25200.14. (a) For purposes of this section, "phase I environmental assessment" means a preliminary site assessment based on reasonably available knowledge of the facility, including, but not limited to, historical use of the property, prior releases, visual and other surveys, records, consultant reports, and regulatory agency correspondence.

(b) (1) Except as provided in paragraph (2) and in subdivision (i), in implementing the requirements of Section 25200.10 for facilities operating pursuant to a permit-by-rule under the regulations adopted by the department regarding transportable treatment units and fixed treatment units, which are contained in Chapter 45 (commencing with Section 67450.1) of Division 4.5 of Title 22 of the California Code of Regulations, or for generators operating pursuant to a grant of conditional authorization under Section 25200.3, the department or the unified program agency authorized to implement this section pursuant to Section 25404.1 shall require the owner or operator of the facility or the generator to complete and file a phase I environmental assessment with the department or the authorized unified program agency not later than one year from the date of adoption of the checklist specified in subdivision (f), but not later than January 1, 1997, or one year from the date that the facility or generator becomes authorized to operate, whichever date is later. After submitting a phase I environmental assessment,



the owner or operator of the facility or the generator shall subsequently submit to the department or the authorized unified program agency, during the next regular reporting period, if any, updated information obtained by the facility owner or operator or the generator concerning releases subsequent to the submission of the phase I environmental assessment.

(2) Paragraph (1) does not apply to a facility owner or operator that is conducting, or has conducted, a site assessment of the entire facility or to a generator that is conducting, or has conducted, a site assessment of the entire facility of the generator in accordance with an order issued by a California regional water quality control board or any other state or federal environmental enforcement agency.

(c) An assessment ~~which~~ that would otherwise meet the requirements of this section that is prepared for another purpose and was completed not more than three years prior to the date by which the facility owner or operator or the generator is required to submit a phase I environmental assessment may be used to comply with this section if the assessment is supplemented by any relevant updated information reasonably available to the facility owner or operator or to the generator.

(d) The department or the unified program agency authorized to implement this section pursuant to Section 25404.1 shall not require sampling or testing as part of the phase I environmental assessment. A phase I environmental assessment shall be certified by the facility owner or operator or by the generator, or by their designee, or by a certified professional engineer, or a geologist, or ~~a registered~~ an environmental assessor. The phase I environmental assessment shall indicate whether the preparer believes that further investigation, including sampling and analysis, is necessary to determine whether



a release has occurred, or to determine the extent of a release from a solid waste management unit or hazardous waste management unit.

(e) (1) If the results of a phase I environmental assessment conducted pursuant to subdivision (b) indicate that further investigation is needed to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, the facility owner or operator or the generator shall submit a schedule, within 90 days from the date of submission of the phase I environmental assessment, for that further investigation to the department or to the unified program agency authorized to implement this section pursuant to Section 25404.1. If the department or the authorized unified program agency determines, based upon a review of the phase I environmental assessment or other site-specific information in its possession, that further investigation is needed to determine the existence or extent of a release from a solid waste management unit or hazardous waste management unit, in addition to any further action proposed by the facility owner or operator or the generator, or determines that a different schedule is necessary to prevent harm to human health and safety or to the environment, the department or the authorized unified program agency shall inform the facility owner or operator or the generator of that determination and shall set a reasonable time period in which to accomplish that further investigation.

(2) In determining if a schedule is acceptable for investigation or remediation of any facility or generator subject to this section, the department may require more expeditious action if the department determines that hazardous constituents are mobile and are likely moving toward, or have entered, a source of drinking water, as defined by the State Water Resources Control Board, or determines that more expeditious



1209263079108114



action is otherwise necessary to protect human health or safety or the environment. To the extent that the department determines that the hazardous constituents are relatively immobile, or that more expeditious action is otherwise not necessary to protect public health or safety or the environment, the department may allow a longer schedule to allow the facility or generator to accumulate a remediation fund, or other financial assurance mechanism, prior to taking corrective action.

(3) If a facility owner or operator or the generator is conducting further investigation to determine the nature or extent of a release pursuant to, and in compliance with, an order issued by a California regional water quality control board or other state or federal environmental enforcement agency, the department or the authorized unified program agency shall deem that investigation adequate for the purposes of determining the nature and extent of the release or releases that the order addressed, as the investigation pertains to the jurisdiction of the ordering agency.

(f) The department shall develop a checklist to be used by facility owners or operators and generators in conducting a phase I environmental assessment. The development and publication of the checklist is not subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall hold at least one public workshop concerning the development of the checklist. The checklist shall not exceed the phase I requirements adopted by the American Society for Testing and Materials (ASTM) for due diligence for commercial real estate transactions. The department shall deem compliance with those ASTM standards, or compliance with the checklist developed and published by the department, as meeting the phase I environmental assessment requirements of this section.



(g) A facility, or to the extent required by the regulations adopted by the department, a transportable treatment unit, operating pursuant to a permit-by-rule shall additionally comply with the remaining corrective action requirements specified in Section 67450.7 of Title 22 of the California Code of Regulations, in effect on January 1, 1992.

(h) A generator operating pursuant to a grant of conditional authorization pursuant to Section 25200.3 shall additionally comply with paragraph (3) of subdivision (c) of Section 25200.3.

(i) The department or the authorized unified program agency shall not require a phase I environmental assessment for those portions of a facility subject to a corrective action order issued pursuant to Section 25187, a cleanup and abatement order issued pursuant to Section 13304 of the Water Code, or a corrective action required under subsection (u) of Section 6924 of Title 42 of the United States Code or subsection (h) of Section 6928 of Title 42 of the United States Code.

SEC. 4. Section 25201.6 of the Health and Safety Code is amended to read:

25201.6. (a) For purposes of this section and Section 25205.2, the following terms have the following meaning:

(1) "Series A standardized permit" means a permit issued to a facility that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 50,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 100,000 pounds per calendar month.



(C) The total facility storage design capacity is greater than 500,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 500 tons for solid hazardous waste.

(E) A volume of liquid or solid hazardous waste is stored at the facility for more than one calendar year.

(2) "Series B standardized permit" means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not exceed any of the upper volume limits specified in subparagraphs (A) to (D), inclusive, and that meets one or more of the following conditions:

(A) The total influent volume of liquid hazardous waste treated is greater than 5,000 gallons, but does not exceed 50,000 gallons, per calendar month.

(B) The total volume of solid hazardous waste treated is greater than 10,000 pounds, but does not exceed 100,000 pounds, per calendar month.

(C) The total facility storage design capacity is greater than 50,000 gallons, but does not exceed 500,000 gallons, for liquid hazardous waste.

(D) The total facility storage design capacity is greater than 100,000 pounds, but does not exceed 500 tons, for solid hazardous waste.

(3) "Series C standardized permit" means a permit issued to a facility that does not store liquid or solid hazardous waste for a period of more than one calendar year, that does not conduct thermal treatment of hazardous waste, with the exception of evaporation, and that either meets the requirements of paragraph (3) of subdivision (g) or meets all of the following conditions:



(A) The total influent volume of liquid hazardous waste treated does not exceed 5,000 gallons per calendar month.

(B) The total volume of solid hazardous waste treated does not exceed 10,000 pounds per calendar month.

(C) The total facility storage design capacity does not exceed 50,000 gallons for liquid hazardous waste.

(D) The total facility storage design capacity does not exceed 100,000 pounds for solid hazardous waste.

(b) The department shall adopt regulations specifying standardized hazardous waste facilities permit application forms that may be completed by a non-RCRA Series A, B, or C treatment, storage, or treatment and storage facility, in lieu of other hazardous waste facilities permit application procedures set forth in regulations. The department shall not issue permits under this section to specific classes of facilities unless the department finds that doing so will not create a competitive disadvantage to a member or members of that class that were in compliance with the permitting requirements which were in effect on September 1, 1992.

(c) The regulations adopted pursuant to subdivision (b) shall include all of the following:

(1) Require that the standardized permit notification be submitted to the department on or before October 1, 1993, for facilities existing on or before September 1, 1992, except for facilities specified in paragraphs (2) and (3) of subdivision (g). The standardized permit notification shall include, at a minimum, the information required for a Part A application as described in the regulations adopted by the department.



(2) Require that the standardized permit application be submitted to the department within six months of the submittal of the standardized permit notification. The standardized permit application shall require, at a minimum, that the following information be submitted to the department for review prior to the final permit determination:

(A) A description of the treatment and storage activities to be covered by the permit, including the type and volumes of waste, the treatment process, equipment description, and design capacity.

(B) A copy of the closure plan as required by paragraph (13) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(C) A description of the corrective action program, as required by Section 25200.10.

(D) Financial responsibility documents specified in paragraph (17) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(E) A copy of the topographical map as specified in paragraph (18) of subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations.

(F) A description of the individual container, and tank and containment system, and of the engineer's certification, as specified in Sections 66270.15 and 66270.16 of Title 22 of the California Code of Regulations.

(G) Documentation of compliance, if applicable, with the requirements of Article 8.7 (commencing with Section 25199).

(3) Require that a facility operating pursuant to a standardized permit comply with the liability assurance requirements in Section 25200.1.



(4) Specify which of the remaining elements of the permit application, as described in subdivision (b) of Section 66270.14 of Title 22 of the California Code of Regulations, shall be the subject of a certification of compliance by the applicant.

(5) Establish a procedure for imposing an administrative penalty pursuant to Section 25187, in addition to any other penalties provided by this chapter, upon an owner or operator of a treatment or storage facility that is required to obtain a hazardous waste facilities permit and that meets the criteria for a Series A, B, or C permit listed in subdivision (a), who does not submit a standardized permit notification to the department on or before the submittal deadline specified in paragraph (1) or the submittal deadline specified in paragraph (2) or (3) of subdivision (g), whichever date is applicable, and who continues to operate the facility without obtaining a hazardous waste facilities permit or other grant of authorization from the department after the applicable deadline for submitting the notification to the department. In determining the amount of the administrative penalty to be assessed, the regulations shall require the amount to be based upon the economic benefit gained by that owner or operator as a result of failing to comply with this section.

(6) Require that a facility operating pursuant to a standardized permit comply, at a minimum, with the interim status facility operating requirements specified in the regulations adopted by the department, except that the regulations adopted pursuant to this section may specify financial assurance amounts necessary to adequately respond to damage claims at levels that are less than those required for interim status facilities if the department determines that lower financial assurance levels are appropriate.



(d) (1) Any regulations adopted pursuant to this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) On and before January 1, 1995, the adoption of the regulations pursuant to paragraph (1) is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(e) The department may not grant a permit under this section unless the department has determined the adequacy of the material submitted with the application and has conducted an inspection of the facility and determined all of the following:

(1) The treatment process is an effective method of treating the waste, as described in the permit application.

(2) The corrective action plan is appropriate for the facility.

(3) The financial assurance is sufficient for the facility.

(f) (1) Interim status shall not be granted to a facility that does not submit a standardized permit notification on or before October 1, 1993, unless the facility is subject to paragraph (2) or (3) of subdivision (g).

(2) Interim status shall be revoked if the permit application is not submitted within six months of the permit notification.

(3) Interim status granted to any facility pursuant to this section and Sections 25200.5 and 25200.9 shall terminate upon a final permit determination or January 1, 1998, whichever date is earlier. This paragraph shall apply retroactively to facilities for which a final permit determination is made on or after September 30, 1995.



120926307910BILL

(4) A treatment, storage, or treatment and storage facility operating pursuant to interim status that applies for a permit pursuant to this section shall pay fees to the department in an amount equal to the fees established by subdivision (e) of Section 25205.4 for the same size and type of facility.

(g) (1) Except as provided in paragraphs (2), (3), and (4), a facility treating used oil or solvents, or that engages in incineration, thermal destruction, or any land disposal activity, is not eligible for a standardized permit pursuant to this section.

(2) (A) Notwithstanding paragraph (1), an offsite facility treating solvents is eligible for a standardized permit pursuant to this section if all of the following conditions are met:

(i) The facility exclusively treats solvent wastes, and is not required to obtain a permit pursuant to the federal act.

(ii) The solvent wastes that the facility treats are only the types of solvents generated from dry cleaning operations.

(iii) Ninety percent or more of the solvents that the facility receives are from dry cleaning operations.

(iv) Ninety percent or more of the solvents that the facility receives are recycled and sold by the facility, excluding recycling for energy recovery, provided that the facility does not produce more than 15,000 gallons per month of recycled solvents.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1995, if the owner or operator



1209263079108111



complies with the notification and application requirements of this section on or before March 1, 1995.

(C) A facility treating solvents pursuant to this paragraph shall clearly label all recycled solvents as recycled prior to subsequent sale or distribution.

(D) Notwithstanding that a facility eligible for a standardized permit pursuant to this paragraph meets the eligibility requirements for a Series C standardized permit specified in paragraph (3) of subdivision (a), the facility shall obtain and meet the requirements for a Series B standardized permit specified in paragraph (2) of subdivision (a).

(E) Notwithstanding any other provision of this chapter, for purposes of this paragraph, if the recycled material is to be used for dry cleaning, "recycled" means the removal of water and inhibitors from waste solvent and the production of dry cleaning solvent with an appropriate inhibitor for dry cleaning use. The removal of inhibitors is not required if all of the solvents received by the facility that are recycled for dry cleaning use are from dry cleaners.

(3) (A) Notwithstanding paragraph (1), an owner or operator with a surface impoundment used only to contain non-RCRA wastes generated onsite, that holds those wastes for not more than one 30-day period in any calendar year, and that meets the criteria specified in paragraphs (i) to (iii), inclusive, may submit a Series C standardized permit application to the department. A surface impoundment is eligible for operation under the Series C standardized permit tier if all of the following requirements are met:



120926309108111

(i) The waste and any residual materials are removed from the surface impoundment within 30 days of the date the waste was first placed into the surface impoundment.

(ii) The owner or operator has, and is in compliance with, current waste discharge requirements issued by the appropriate California regional water quality control board for the surface impoundment.

(iii) The owner or operator complies with all applicable groundwater monitoring requirements of the regulations adopted by the department pursuant to this chapter.

(B) A facility that is eligible for a standardized permit pursuant to this paragraph is also eligible for the fee exemption provided in subdivision (d) of Section 25205.12 for any year or reporting period prior to January 1, 1996, if the owner or operator complies with the notification and application requirements of this section on or before March 1, 1996.

(4) For purposes of this subdivision, treating solvents and thermal destruction do not include the destruction of nonmetal constituents in a thermal treatment unit that is operated solely for the purpose of the recovery of precious metals, if that unit is operating pursuant to a standardized permit issued by the department and the unit is in compliance with the applicable requirements of Division 26 (commencing with Section 39000). This paragraph does not prohibit the department from specifying, in the standardized permit for such a unit, a maximum concentration of nonmetal constituents, if the department determines that this requirement is necessary for protection of human health or safety or the environment.



(h) Facilities operating pursuant to this section shall comply with Article 4 (commencing with Section 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the California Code of Regulations.

(i) (1) The department shall require an owner or operator applying for a standardized permit to complete and file a phase I environmental assessment with the application. However, if a RCRA facility assessment has been performed by the department, the assessment shall be deemed to satisfy the requirement of this subdivision to complete and file a phase I environmental assessment, and the facility shall not be required to submit a phase I environmental assessment with its application.

(2) (A) For purposes of this subdivision, the phase I environmental assessment shall include a preliminary site assessment, as described in subdivision (a) of Section 25200.14, except that the phase I environmental assessment shall also include a certification, signed, except as provided in subparagraph (B), by the owner, and also by the operator if the operator is not the owner, of the facility and an independent professional engineer, or geologist registered in the state, or environmental assessor ~~registered in the state~~.

(B) Notwithstanding subparagraph (A), the certification for a permanent household waste collection facility may be signed by any professional engineer, or geologist registered in this state, or environmental assessor ~~registered in the state~~, including, but not limited to, such a person employed by the governmental entity, but if the facility owner is not a governmental entity, the engineer, geologist, or assessor signing the certification shall not be employed by, or be an agent of, the facility owner.



(3) The certification specified in paragraph (2) shall state whether evidence of a release of hazardous waste or hazardous constituents has been found.

(4) If evidence of a release has been found, the facility shall complete a detailed site assessment to determine the nature and extent of any contamination resulting from the release and shall submit a corrective action plan to the department, within one year of submittal of the standardized permit application.

(j) The department shall establish an inspection program to identify, inspect, and bring into compliance any treatment, storage, or treatment and storage facility that is eligible for, and is required to obtain, a standardized hazardous waste facilities permit pursuant to this section, and that is operating without a permit or other grant of authorization from the department for that treatment or storage activity.

(k) A treatment, storage, or treatment and storage facility authorized to operate pursuant to a hazardous waste facilities permit issued pursuant to Section 25200, that meets the criteria listed in subdivision (a) for a standardized permit, may operate pursuant to a Series A, B, or C standardized permit by completing the appropriate permit modification procedure specified in the regulations for such a modification.

SEC. 5. Section 25244.19 of the Health and Safety Code is amended to read:

25244.19. (a) On or before September 1, 1991, and every four years thereafter, each generator shall conduct a source reduction evaluation review and plan pursuant to subdivision (b).

(b) Except as provided in subdivision (c), the source reduction evaluation review and plan required by subdivision (a) shall be conducted and completed for each site



120926307910117

pursuant to the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include, at a minimum, all of the following:

(1) The name and location of the site.

(2) The SIC Code of the site.

(3) Identification of all routinely generated hazardous waste streams that annually weigh 600 kilograms or more and that result from ongoing processes or operations and exceed 5 percent of the total yearly weight of hazardous waste generated at the site, or, for extremely hazardous waste, that annually weigh 0.6 kilograms or more and exceed 5 percent of the total yearly weight of extremely hazardous waste generated at the site. For purposes of this paragraph, a hazardous waste stream identified pursuant to this paragraph shall also meet one of the following criteria:

(A) It is a hazardous waste stream processed in a wastewater treatment unit that discharges to a publicly owned treatment works or under a national pollutant discharge elimination system (NPDES) permit, as specified in the Federal Water Pollution Control Act, as amended (33 U.S.C. Sec. 1251 and following).

(B) It is a hazardous waste stream that is not processed in a wastewater treatment unit and its weight exceeds 5 percent of the weight of the total yearly volume at the site, less the weight of any hazardous waste stream identified in subparagraph (A).

(4) For each hazardous waste stream identified in paragraph (3), the review and plan shall include all of the following information:

(A) An estimate of the quantity of hazardous waste generated.



120926307910BILL

(B) An evaluation of source reduction approaches available to the generator that are potentially viable. The evaluation shall consider at least all of the following source reduction approaches:

- (i) Input change.
- (ii) Operational improvement.
- (iii) Production process change.
- (iv) Product reformulation.

(5) A specification of, and a rationale for, the technically feasible and economically practicable source reduction measures that will be taken by the generator with respect to each hazardous waste stream identified in paragraph (3). The review and plan shall fully document any statement explaining the generator's rationale for rejecting any available source reduction approach identified in paragraph (4).

(6) An evaluation, and, to the extent practicable, a quantification, of the effects of the chosen source reduction method on emissions and discharges to air, water, or land.

(7) A timetable for making reasonable and measurable progress towards implementation of the selected source reduction measures specified in paragraph (5).

(8) Certification pursuant to subdivision (d).

(9) Any generator subject to this article shall include in its source reduction evaluation review and plan four-year numerical goals for reducing the generation of hazardous waste streams through the approaches provided for in subparagraph (B) of paragraph (4), based upon its best estimate of what is achievable in that four-year period.



1209263079108111

(10) A summary progress report that briefly summarizes and, to the extent practicable, quantifies, in a manner that is understandable to the general public, the results of implementing the source reduction methods identified in the generator's review and plan for each waste stream addressed by the previous plan over the previous four years. The report shall also include an estimate of the amount of reduction that the generator anticipates will be achieved by the implementation of source reduction methods during the period between the preparation of the review and plan and the preparation of the generator's next review and plan. Notwithstanding any other provision of this section, the summary progress report required to be prepared pursuant to this paragraph shall be submitted to the department on or before September 1, 1999, and every four years thereafter.

(c) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite review and plan addressing all of these sites.

(d) Every review and plan conducted pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor ~~who is registered pursuant to Section 25570.3 and~~ who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the review and plan only if the review and plan meet all of the following requirements:



(1) The review and plan addresses each hazardous waste stream identified pursuant to paragraph (3) of subdivision (b).

(2) The review and plan addresses the source reduction approaches specified in subparagraph (B) of paragraph (4) of subdivision (b).

(3) The review and plan clearly sets forth the measures to be taken with respect to each hazardous waste stream for which source reduction has been found to be technically feasible and economically practicable, with timetables for making reasonable and measurable progress, and properly documents the rationale for rejecting available source reduction measures.

(4) The review and plan does not merely shift hazardous waste from one environmental medium to another environmental medium by increasing emissions or discharges to air, water, or land.

(e) At the time a review and plan is submitted to the department or the unified program agency, the generator shall certify that the generator has implemented, is implementing, or will be implementing, the source reduction measures identified in the review and plan in accordance with the implementation schedule contained in the review and plan. A generator may determine not to implement a measure selected in paragraph (5) of subdivision (b) only if the generator determines, upon conducting further analysis or due to unexpected circumstances, that the selected measure is not technically feasible or economically practicable, or if attempts to implement that measure reveal that the measure would result in, or has resulted in, any of the following:

(1) An increase in the generation of hazardous waste.



1209263071012



(2) An increase in the release of hazardous chemicals to other environmental media.

(3) Adverse impacts on product quality.

(4) A significant increase in the risk of an adverse impact to human health or the environment.

(f) If the generator elects not to implement the review and plan, including, but not limited to, a selected measure pursuant to subdivision (e), the generator shall amend its review and plan to reflect that election and include in the review and plan proper documentation identifying the rationale for that election.

SEC. 6. Section 25244.20 of the Health and Safety Code is amended to read:

25244.20. (a) On or before September 1, 1991, and every four years thereafter, each generator shall prepare a hazardous waste management performance report documenting hazardous waste management approaches implemented by the generator.

(b) Except as provided in subdivision (d), the hazardous waste management performance report required by subdivision (a) shall be prepared for each site in accordance with the format adopted pursuant to subdivision (a) of Section 25244.16 and shall include all of the following:

(1) The name and location of the site.

(2) The SIC Code for the site.

(3) All of the following information for each waste stream identified pursuant to paragraph (3) of subdivision (b) of Section 25244.19:



120926307910BILL

(A) An estimate of the quantity of hazardous waste generated and the quantity of hazardous waste managed, both onsite and offsite, during the current reporting year and the baseline year, as specified in subdivision (c).

(B) An abstract for each source reduction, recycling, or treatment technology implemented from the baseline year through the current reporting year, if the reporting year is different from the baseline year.

(C) A description of factors during the current reporting year that have affected hazardous waste generation and onsite and offsite hazardous waste management since the baseline year, including, but not limited to, any of the following:

(i) Changes in business activity.

(ii) Changes in waste classification.

(iii) Natural phenomena.

(iv) Other factors that have affected either the quantity of hazardous waste generated or onsite and offsite hazardous waste management requirements.

(4) The certification of the report pursuant to subdivision (e).

(c) For purposes of subdivision (b), the following definitions apply:

(1) The current reporting year is the calendar year immediately preceding the year in which the report is to be prepared.

(2) The baseline year is either of the following, whichever is applicable:

(A) For the initial report, the baseline year is the calendar year selected by the generator for which substantial hazardous waste generation, or onsite or offsite management, data is available prior to 1991.



(B) For all subsequent reports, the baseline year is the current reporting year of the immediately preceding report.

(d) If a generator owns or operates multiple sites with similar processes, operations, and waste streams, the generator may prepare a single multisite report addressing all of these sites.

(e) Every report completed pursuant to this section shall be submitted by the generator for review and certification by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code and who has demonstrated expertise in hazardous waste management, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor ~~who is registered pursuant to Section 25570.3 and~~ who has demonstrated expertise in hazardous waste management. The engineer, individual, or environmental assessor shall certify the report only if the report identifies factors that affect the generation and onsite and offsite management of hazardous wastes and summarizes the effect of those factors on the generation and onsite and offsite management of hazardous wastes.

SEC. 7. Article 8 (commencing with Section 25395.1) of Chapter 6.8 of Division 20 of the Health and Safety Code is repealed.

SEC. 8. Section 25395.30 of the Health and Safety Code is amended to read:

25395.30. The following persons are not eligible to apply for a loan under this article:

(a) A person who has been convicted of a felony or misdemeanor involving the regulation of hazardous materials, including, but not limited to, a conviction of a felony or misdemeanor under former Section 25395.13.



12092630791011

(b) A person who has been convicted of a felony or misdemeanor involving moral turpitude, including, but not limited to, the crimes of fraud, bribery, the falsification of records, perjury, forgery, conspiracy, profiteering, or money laundering.

(c) A person who is in violation of an administrative order or agreement issued by or entered into with any federal, state, or local agency that requires response action at a site or a judicial order or consent decree that requires response action at a site.

(d) A person who knowingly made a false statement regarding a material fact or knowingly failed to disclose a material fact in connection with an application submitted to the secretary under this article.

SEC. 9. Section 25395.119 of the Health and Safety Code is amended to read:

25395.119. (a) Using existing resources or when funds become available, the Secretary for Environmental Protection shall designate a brownfields ombudsperson whose responsibilities shall include, but are not limited to, all of the following:

(1) Assisting in the coordination of the brownfields activities of each office, board, and department within the California Environmental Protection Agency.

(2) Advocating and expanding the relationship between the California Environmental Protection Agency and local, state, and federal governmental entities' efforts pertaining to brownfields.

(3) Serving as the California Environmental Protection Agency's representative on committees, working groups, and other organizations pertaining to brownfields.

(4) Providing assistance in investigating complaints from the public, and helping to resolve and coordinate the resolution of those complaints relating to the brownfields



activities of each office, board, and department within the California Environmental Protection Agency.

(5) Facilitating and advocating that the issue of environmental justice for communities most impacted, including low-income and racial minority populations, is considered in brownfields activities of each office, board, and department within the California Environmental Protection Agency.

~~(6) Assisting the California Environmental Protection Agency in implementing the guidelines established under Section 25401.2.~~

(b) The brownfield ombudsperson is not authorized to make or reverse a decision of an office, board, or department within the California Environmental Protection Agency.

SEC. 10. Chapter 6.10 (commencing with Section 25401) of Division 20 of the Health and Safety Code is repealed.

SEC. 11. Chapter 6.98 (commencing with Section 25570) of Division 20 of the Health and Safety Code is repealed.

SEC. 12. Section 44392 of the Health and Safety Code is amended to read:

44392. A facility operator subject to this chapter shall conduct an airborne toxic risk reduction audit and develop a plan which shall include at a minimum all of the following:

- (a) The name and location of the facility.
- (b) The SIC code for the facility.
- (c) The chemical name and the generic classification of the chemical.
- (d) An evaluation of the ATRRM's available to the operator.



(e) The specification of, and rationale for, the ATRRMs that will be implemented by the operator. The audit and plan shall document the rationale for rejecting ATRRMs that are identified as infeasible or too costly.

(f) A schedule for implementing the ATRRMs. The schedule shall meet the time requirements of subdivision (a) of Section 44391 or the time period for implementing the plan set by the district pursuant to subdivision (b) or (c) of Section 44391, whichever is applicable.

(g) The audit and plan shall be reviewed and certified as meeting this chapter by an engineer who is registered as a professional engineer pursuant to Section 6762 of the Business and Professions Code, by an individual who is responsible for the processes and operations of the site, or by an environmental assessor ~~registered pursuant to Section 25570.3.~~

SEC. 13. Section 57009 of the Health and Safety Code is repealed.

~~57009. For purposes of this section, the following terms have the following meanings:~~

~~(1) "Agency" means the California Environmental Protection Agency.~~

~~(2) "Contaminated property" means a property located in the study area that is, or may be, subject to remediation pursuant to Chapter 6.10 (commencing with Section 25401) of Division 20.~~

~~(3) "Pilot screening numbers" means the levels published in Appendix 1 of Volume 2 of the technical report, except that, for purposes of the study required by this section, the levels published in Appendix 1 may be used only as informational~~



~~screening numbers, as provided in paragraph (3) of subdivision (a) of Section 57008, and in a manner consistent with the technical report.~~

~~(4) "Study area" means the Los Angeles, Santa Ana, and San Diego regions, as established pursuant to Section 13200 of the Water Code.~~

~~(5) "Technical report" means the technical report published by the San Francisco Regional Water Quality Control Board entitled "Application of Risk-Based Screening Levels and Decision-Making to Sites with Impacted Soil and Groundwater (Interim Final August 2000)" and any updates to the technical report.~~

~~(b) The agency shall conduct a study to evaluate the usefulness of pilot screening numbers in encouraging remediation at contaminated properties in the study area. The agency shall conduct the study in accordance with the requirements of subdivision (c) and shall develop information that bears on all of the following issues:~~

~~(1) The extent to which the pilot screening numbers are an adequate basis for estimating the degree of effort that may be necessary to remediate contaminated properties.~~

~~(2) Whether the availability of the pilot screening numbers as information provides an adequate basis for seeking funding from public or private sector sources to evaluate the feasibility of remediating a contaminated property and restoring it to productive use.~~

~~(3) The stages in the remediation process for which the pilot screening numbers are of the most use.~~



~~(4) The types of information derived from site investigations that are most useful, when combined with the pilot screening numbers, in making decisions concerning the feasibility of remediation of contaminated properties.~~

~~(5) Whether the availability of pilot screening numbers as information enables a person interested in the remediation of a contaminated property to determine, within an acceptable range, the relationship between the estimated cost of remediation of the property and the economic and social benefits that may derive from the property if it is restored to any of its reasonably foreseeable uses.~~

~~(c) The agency shall carry out the study required by subdivision (b) in the study area over the period commencing on March 1, 2002, until March 1, 2004. On or before June 30, 2004, the agency shall do all of the following:~~

~~(1) Prepare a brief document that explains what are screening numbers, what is the relationship of screening numbers to regulatory cleanup levels, and how screening numbers may be used to make judgments concerning the feasibility of restoring a contaminated property to productive use, and the degree of effort that may be required to remediate the property.~~

~~(2) Post the explanatory document prepared pursuant to paragraph (1), the technical report, and updates to the technical report, on the Internet Web sites maintained by the Department of Toxic Substances Control and by the California regional water quality control boards that have jurisdiction in the study area.~~

~~(3) Identify 25 contaminated properties in the study area that are remediated during the test period of March 1, 2002, until March 1, 2004, to determine the effects of the availability of the pilot screening numbers as information on the course of~~





~~remediation and revitalization of contaminated properties and on assisting persons involved with the remediation to make meaningful decisions concerning the feasibility and effectiveness of remediation activities and assess whether the pilot screening numbers were more or less stringent than the required cleanup levels.~~

~~(d) The agency may not include in the pilot study more than 25 remediated contaminated properties in the study area.~~

~~(e) The study required by this section does not create any legal or regulatory authorization to use the pilot screening numbers. The pilot screening numbers are only available as information.~~

~~(f) The agency shall evaluate the information developed by the study required by this section, use the information as appropriate to carry out the requirements of Section 57008, and, to the extent the information is timely, provide the information and the evaluation to the contractor preparing the study required by Section 57010.~~

~~(g) The agency shall post the information developed by the study required by this section and the information required under paragraph (2) of subdivision (c) on its Internet Web site.~~

~~(h) Nothing in this section affects the authority of the Department of Toxic Substances Control, the State Water Resources Control Board, or a regional water quality control board to take action under any applicable law or regulation regarding a release or threatened release of hazardous materials.~~

SEC. 14. Section 58004.5 of the Health and Safety Code is repealed.

~~58004.5. (a) The department succeeds to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Office of Environmental~~



1209263076108114

~~Health Hazard Assessment with regard to the Environmental Quality Assessment Act of 1986 (Chapter 6.98 (commencing with Section 25570)):~~

~~(b) The Director of Toxic Substances Control may expend the unexpended balance of any funds available for expenditure by the Director of Environmental Health Hazard Assessment in connection with the performance of the functions of the Director of Environmental Health Hazard Assessment in carrying out the Environmental Quality Assessment Act of 1986:~~

~~(c) All officers and employees of the Office of Environmental Health Hazard Assessment who are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function in carrying out the Environmental Quality Assessment Act of 1986 shall be transferred to the department. The status, positions, and rights of those persons shall not be affected by the transfer and shall be retained by them as officers and employees of the Department of Toxic Substances Control, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to positions exempted from civil service:~~

~~(d) The department shall have possession and control of all records, papers, offices, equipment, supplies, money, funds, appropriations, licenses, permits, agreements, contracts, claims, judgments, and land or other property, real or personal, held for the benefit or use of the Office of Environmental Health Hazard Assessment for purposes of the functions transferred to the department to subdivision (a):~~

~~(e) Any regulation adopted before January 1, 2003, by the Office of Environmental Health Hazard Assessment or its predecessors, relating to carrying out~~



~~the Environmental Quality Assessment Act of 1986, as specified in subdivision (a); that are in effect on January 1, 2003, shall remain in effect on and after January 1, 2003, and are enforceable by the department until readopted, amended, or repealed by the department.~~

SEC. 15. Section 106615 of the Health and Safety Code is amended to read:

106615. The words and phrases defined in this section shall have the following meaning, unless the context clearly indicates otherwise:

(a) "Department" means the State Department of Public Health Services.

(b) "Committee" means the Environmental Health Specialist Registration Committee.

(c) "Registered environmental health specialist" means an environmental health professional educated and trained within the field of environmental health who is registered in accordance with the provisions of this article. ~~A registered environmental health specialist registered under this article also meets the requirements for registration as an environmental assessor pursuant to Section 25570.~~

(d) "Environmental health specialist trainee" means a person who possesses (1) a minimum of a bachelor's degree, including 30 semester units of basic sciences, from a department approved educational institution or an educational institution of collegiate grade listed in the directory of accredited institutions of postsecondary education compiled by the American Council on Education, but who has not completed the specific coursework and experience requirements in the field of environmental health as required by Section 106660 for registration, and (2) who is engaged in an approved environmental health training plan.



(e) "Scope of practice in environmental health" means the practice of environmental health by registered environmental health specialists in the public and private sector within the meaning of this article and includes, but is not limited to, organization, management, education, enforcement, consultation, and emergency response for the purpose of prevention of environmental health hazards and the promotion and protection of the public health and the environment in the following areas: food protection; housing; institutional environmental health; land use; community noise control; recreational swimming areas and waters; electromagnetic radiation control; solid, liquid, and hazardous materials management; underground storage tank control; onsite septic systems; vector control; drinking water quality; water sanitation; emergency preparedness; and milk and dairy sanitation pursuant to Section 33113 of the Food and Agricultural Code. Activities of registered environmental health specialists shall be regulated by the department upon the recommendation of the committee.

(f) "Certificate of registration" means a signed document issued by the department as evidence of registration and qualification to practice as a registered environmental health specialist under this article. The certificate shall bear the designation "registered environmental health specialist" and shall show the name of the person, date of issue, registration number, and seal.

(g) "Experience requirement" means on-the-job training and experience, as stated in this article, that all environmental health specialist trainees shall complete prior to obtaining eligibility for the environmental health specialist examination.

(h) "Approved environmental health training plan" means a training program in an organization that plans to utilize environmental health specialist trainees and has



120926301926021

on file with the department a copy of its training plan that conforms with the requirements of Section 106665, and that has been approved by the committee.

(i) "Director" means the director.

SEC. 16. Section 21155.1 of the Public Resources Code is amended to read:

21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.



(B) For the purposes of this paragraph, “wetlands” has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For the purposes of this paragraph:

(i) “Riparian areas” means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) “Wildlife habitat” means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of “significant value” includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.



1209263079108111

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by ~~a registered~~ an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined



pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For the purposes of this paragraph, “developed open space” means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(B) For the purposes of this paragraph, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:





(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing



120926307910B11L

costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

SEC. 17. Section 21159.21 of the Public Resources Code is amended to read:

21159.21. A housing project qualifies for an exemption from this division pursuant to Section 21159.22, 21159.23, or 21159.24 if it meets the criteria in the applicable section and all of the following criteria:

(a) The project is consistent with any applicable general plan, specific plan, and local coastal program, including any mitigation measures required by a plan or program, as that plan or program existed on the date that the application was deemed complete and with any applicable zoning ordinance, as that zoning ordinance existed on the date that the application was deemed complete, except that a project shall not be deemed to be inconsistent with the zoning designation for the site if that zoning designation is inconsistent with the general plan only because the project site has not been rezoned to conform with a more recently adopted general plan.

(b) Community-level environmental review has been adopted or certified.



(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(d) The site of the project does not contain wetlands, does not have any value as a wildlife habitat, and the project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete. For the purposes of this subdivision, "wetlands" has the same meaning as in Section 328.3 of Title 33 of the Code of Federal Regulations and "wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by ~~a registered~~ an environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.



(1) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(2) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1.

(h) The project site is not subject to any of the following:

(1) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(2) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(3) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(4) Within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(5) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.



(i) (1) The project site is not located on developed open space.

(2) For the purposes of this subdivision, “developed open space” means land that meets all of the following criteria:

(A) Is publicly owned, or financed in whole or in part by public funds.

(B) Is generally open to, and available for use by, the public.

(C) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(3) For the purposes of this subdivision, “developed open space” includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired by public funds dedicated to the acquisition of land for housing purposes.

(j) The project site is not located within the boundaries of a state conservancy.

SEC. 18. There is hereby appropriated one thousand dollars (\$1,000) from the General Fund to the Department of Toxic Substances Control for administrative costs.

SEC. 19. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 20. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall



12092630791031LL

07910

04/13/12 08:50 AM  
RN 12 09263 PAGE 46

take effect immediately and become operative not sooner than the operative date of the Budget Act of 2012.

- 0 -



120926307910BILL

## LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, \_\_\_\_\_.

General Subject: Hazardous materials: registered environmental assessors: site assessment: remedial action.

(1) The Environmental Quality Assessment Act of 1986 requires the Director of Toxic Substances Control to develop and adopt by regulation criteria for a voluntary registration of environmental assessors.

This bill would repeal the act and make conforming changes.

(2) Existing law authorizes a private site management team, upon the approval of the department, to conduct an investigation of potential hazardous substances release sites and to prepare a remedial design for the implementation of a response plan for a release site.

This bill would repeal these provisions and make conforming changes.

(3) The California Land Environmental Restoration and Reuse Act authorizes a local government to implement a program to require the owner of the property that



120926307910BILL

may be affected by a hazardous material release, or threat of a release, to undertake remedial action on the property.

This bill would repeal the act and make conforming changes.

(4) Existing law defines the term “phase I environmental assessment” for purposes of the provisions requiring the preparation of a phase I environmental assessment before the acquisition of a schoolsite and specifies the information that a phase I environmental assessment may include.

This bill would revise the definition of a phase I environmental assessment to require the assessment to meet the current requirements adopted by the American Society for Testing and Materials (ASTM) for Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or certain federal regulations. The bill would impose a state-mandated local program by imposing new duties upon local agencies.

(5) This bill would appropriate \$1,000 from the General Fund to the Department of Toxic Substances Control for administrative costs.

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.





07910

04/13/12 08:50 AM  
RN 12 09263 PAGE 3

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated  
local program: yes.



120926307910BIL